

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RALPH C. MEDLEY, et al.

Defendants.

CIVIL ACTION FILE NO. 7:86-252-3

PLAINTIFF UNITED STATES' FIRST REQUEST
FOR ADMISSIONS TO DEFENDANT NATIONAL
STARCH AND CHEMICAL CORPORATION

Pursuant to Rule 36 of the Federal Rules of Civil Procedure Plaintiff United States requests that Defendant National Starch and Chemical Corporation admit the truth of the following factual statements and make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial:

DEFINITIONS

The definitions appearing in Plaintiff's First Set of Interrogatories to National Starch and Chemical Corporation are incorporated herein and made a part hereof by reference.

1. National Starch and Chemical Corporation acquired all of the assets of Chas. S. Tanner Company in 1980 and continued essentially the same manufacturing operation at Chas. S. Tanner Company's facilities in Greenville and Woodruff, South Carolina until the Greenville facility was closed.



2. Defendant National Starch and Chemical Corporation, as part of its acquisition of all of the assets of Chas. S. Tanner Company in 1980, also agreed to assume all obligations, debts and liabilities of Chas. S. Tanner Company.

3. Defendant National Starch and Chemical Corporation ("defendant" or "National Starch") arranged with Clyde Medley, d/b/a Medley's Concrete Works, to have waste materials owned or possessed by National Starch or its predecessor, Chas. S. Tanner Company, disposed of at the Medley Farm site.

4. Defendant National Starch and Chemical Corporation arranged with Ralph Medley to have waste materials owned or possessed by National Starch, or its predecessor, Chas. S. Tanner Company, disposed of at the Medley Farm site.

5. Wastes disposed of at the Medley Farm site by defendant National Starch were off-specification, obsolete, aged or otherwise unsaleable materials or products manufactured by National Starch or its predecessor, the Chas. S. Tanner Company, at its facilities in Greenville and Woodruff, South Carolina.

6. The waste materials referred to in Request Number 5 contained hazardous substances as defined under Section 101(14) of CERCLA.

7. The Medley Farm site was and is, at all times relevant hereto, a facility owned or operated by persons other than defendant National Starch or its predecessor, the Chas. S. Tanner Company.

8. Admit that the waste materials or off-specification, obsolete, aged or otherwise unsaleable materials or products sent to or disposed of at the Medley Farm site by National Starch or its predecessor, Chas. S. Tanner Company, were not, after shipment to the facility, subsequently removed from the facility by National Starch or Chas. S. Tanner Company or anyone under the direction or control of National Starch or Chas. S. Tanner Company.

9. The products manufactured by National Starch and Chemical Corporation or its predecessor, the Chas. S. Tanner Company, at its facilities in Greenville and Woodruff, South Carolina, during the period from January 1, 1972 through December 31, 1976, contained raw materials or ingredients which are hazardous substances as defined under Section 101(14) of CERCLA.

10. The off-specification, obsolete, aged or otherwise unsaleable materials or products manufactured by National Starch or its predecessor, Chas. S. Tanner Company, at its facilities in Greenville and Woodruff, South Carolina and disposed of at the Medley Farm site were not devoid of hazardous substances as defined under Section 101(14) of CERCLA.

11. Admit that phosphoric acid, vinyl acetate, ferrous sulfate, maleic anhydride, methanol, ammonium chloride, acrylamide, xylene, dibutyl phthalate, acetic acid, sodium hydroxide, formaldehyde, paraformaldehyde, toluene and sulfuric acid are listed as hazardous substances under Section 311(b)(4)

of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. and are hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

12. Admit that traces or some residue of vinyl acetate monomer, ferrous sulfate, methanol, acrylamide, xylene and/or dibutyl phthalate would remain in waste materials or off-specification, obsolete, aged or otherwise unsaleable product disposed of by National Starch or its predecessor, Chas. S. Tanner Company, at the Medley Farm site.

13. Admit that off-specification, obsolete, aged or otherwise unsaleable polyvinyl acetate polymers or products known as Duro-O-Bond 428 and Dur-O-Bond PC-18 manufactured by Chas. S. Tanner Company, were disposed of by National Starch or its predecessor, Chas. S. Tanner Company at the Medley Farm site.

14. Admit that off-specification, obsolete, aged or otherwise unsaleable polyacrylate emulsions or products known as Dur-O-Cryl 245, 330, 338-20A, 345, 350, 360, 380, 490, 520, 525, 620, 620 AN, 636, 638, 720 and 820 were disposed of by National Starch or its predecessor, Chas. S. Tanner Company, at the Medley Farm site.

15. Admit that off-specification, obsolete, aged or otherwise unsaleable acrylic polymer compounds or products known as Dur-O-Tron AN, Dur-O-Tron EBA, Dur-O-Tron EEA, Dur-O-Tron FEA and Dur-O-Tron VP were disposed of by National Starch or its predecessor, Chas. S. Tanner Company, at the Medley Farm site.

16. Admit that off-specification, obsolete, aged or otherwise unsaleable fatty acid compounds or products known as Lostat, Lubitoner and Synolube were disposed of by National Starch or its predecessor, Chas. S. Tanner Company, at the Medley Farm site.

17. Admit that off-specification, obsolete, aged or otherwise unsaleable products known as Tanafix and Tanagum were disposed of by National Starch or its predecessor, Chas. S. Tanner Company, at the Medley Farm site.

18. Admit that off-specification, obsolete, aged or otherwise unsaleable products known as Tanasoft, Tanotard and Tanawet were disposed of by National Starch Company or its predecessor, Chas. S. Tanner Company, at the Medley Farm site.

19. Admit that any of the off-specification, obsolete, aged or otherwise unsaleable aqueous polymers, resins and adhesives products manufactured by National Starch or its predecessor, Chas. S. Tanner Company, at its facilities in Greenville and Woodruff, South Carolina, could have been disposed at the Medley Farm site.


20. Admit that the following documents, attached hereto as Exhibit A are genuine:

a. Copies of invoices from Medley's Concrete Works to Chas. S. Tanner Company and cancelled checks from Chas. S. Tanner Company to Medleys Concrete relating to the disposal of drums and tanker loads of wastes by Chas. S. Tanner Company at the Medley Farm site for the period February 4, 1974 through May 1, 1976.

Respectfully submitted,

F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

By:


G. STEPHEN MANNING
Attorney, Environmental Enforcement
Section
Land and Natural Resources Division
U.S. Department of Justice
10th and Pennsylvania Avenue, N.W.
Washington, D.C. 20530

VINTON DEVANE LIDE
United States Attorney
District of South Carolina
P.O. Box 10067
Greenville, South Carolina 29603

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Plaintiff United States' First Request For Admissions, To Defendant National Starch and Chemical Corporation was served upon all counsel of record by depositing same in the United States mail, postage prepaid, addressed as follows:

Wade S. Weatherford, III
Post Office Box 41
Gaffney, South Carolina 29340
Attorneys for Ralph C. Medley, Clyde Medley,
Grace Medley, Barry Medley, and Medley Concrete Works

Julius W. McKay
McKay & Guerard, P.A.
P.O. Drawer 7157
Columbia, South Carolina 29202

Charles H. Tisdale
King & Spalding
2500 Trust Company Tower
Atlanta, Georgia 30303
Attorneys for National Starch and Chemical Corporation

Richard H. Willis
Nelson, Mullins, Grier
& Scarborough
P.O. Box 11070
Columbia, South Carolina 29211
Attorneys for Unisphere Chemical Corporation

John P. Mann
Thompson, Mann & Hutson
Suite 220
The Daniel Building
Greenville, South Carolina 29602
Attorneys for Milliken & Company

William V. Gunn
Holcombe, Bomar, Wynn & Gunn
Post Office Drawer 1897
Spartanburg, South Carolina 29304
Attorneys For Milliken & Company

John P. Britton
N. Heywood Clarkson III
Rainey, Britton Gibbes & Clarkson
330 East Coffee Street
Greenville, South Carolina 29602
Attorneys for Ethox Chemicals, Inc.

Ralph M. Mellom
Ogletree, Deakins, Nash, Smoak
& Stewart
1000 E. North Street
Greenville, South Carolina 29602
Attorneys For Third-Party Defendants

This 4th day of June 1986.


G. STEPHEN MANNING
Attorney For Plaintiff